

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

GRADY WARREN ROY

VS.

UNIVERSITY OF TEXAS
MEDICAL BRANCH, ET AL.

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CIVIL ACTION NO. G-06-454

REPORT AND RECOMMENDATION

On August 1, 2006, this Court entered an Order that Plaintiff, Grady Warren Roy, had, under Rule 4 of the Federal Rules of Civil Procedure, until November 12, 2006, to perfect service of process upon all named Defendants. There is no indication in the file as to whether Roy requested summons from the Clerk's Office to be served by Roy upon the Defendants; to date, there is no indication in the file that any Defendants have been served.

Under Rule 4(m), absent a showing of good cause, a complaint must be dismissed if service is not perfected within 120 days of the filing of the complaint. Norlock v. City of Garland, 768 F.2d 654, 657 (5th Cir. 1985) In the instant case, Roy has made no effort to show good cause why he has failed to serve the Defendants.

It is, therefore, the **RECOMMENDATION** of this Court that the Original Complaint filed by Grady Warren Roy on July 12, 2006, be **DISMISSED under Rule 4(m), without prejudice, for failure to timely serve the Defendants.** If Roy has any evidence that any or all of the Defendants were actually served with process on or before November 12, 2006, he should submit it with his objections to this Report and Recommendation.

The Clerk **SHALL** send a copy of this Report and Recommendation to Roy who **SHALL** have until **December 22, 2006** in which to have written objections, filed pursuant to 28 U.S.C. § 636(b)(1)(C), **physically on file** in the Office of the Clerk. The Objections **SHALL** be mailed to the Clerk's Office at P.O. Drawer 2300, Galveston, Texas 77553. Failure to file written objections within the prescribed time **SHALL** bar Roy from attacking on appeal the factual findings and legal conclusions accepted by the District Judge, except upon grounds of plain error.

DONE at Galveston, Texas, this 5th day of December, 2006.



John R. Froeschner
United States Magistrate Judge